

DRAFT



CITY OF GAITHERSBURG
MINUTES OF A REGULAR CITY COUNCIL MEETING
MONDAY, SEPTEMBER 17, 2007

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting, and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Ossont, Planners Patula, Marsh, Robinson and Seiden, Community Development Director Kauffmann, City Attorney Borten and Executive Assistant Stokes.

I. PLEDGE OF ALLEGIANCE

The Pledge was led by Catherine Perez, Watkins Mill High School.

II. INVOCATION

In lieu of an invocation, Mayor Katz called for a moment of silence.

III. APPROVAL OF MINUTES

Vote was deferred for the September 10, 2007 minutes.

IV. OATH OF OFFICE

Mayor Katz administered the Oath of Office to Gary Trojak, reappointed to serve a five-year term on the Board of Appeals.

V. PRESENTATIONS

Proclamations

- Designating September 15 – October 15, 2007 as “**National Hispanic Heritage Month**”

Mayor Katz invited Nivea Berrios, Multicultural Affairs Committee and Nancy Navarro, President, Board of Education to join him at the podium and issued a proclamation. The month celebrates the culture and traditions of U.S. residents who trace their roots to Spain, Mexico and the Spanish-speaking nations of Central America, South America and the Caribbean. The City will sponsor events and programs, such as the City World Market, New Business Development Training for Artisans, Vivan Las Americas, National Night Out, International Students Open House, ESOL classes to celebrate and promote the richness of diversity in our community.

Nivea Berrios was joined by Linda Plummer, Multicultural Affairs Committee Member, and several students of the Montgomery County Public Schools, to recognize Ms. Navarro's many accomplishments.

- Designating September 17 – 23, 2007, as “**Constitution Week**”

Mayor Katz issued proclamations to Patricia Johnson, Constitution Week Committee Chair, Goshen Mills Chapter, National Society of the Daughters of the American Revolution (NSDAR) and Kathryn E. George, Constitution Week Committee Chair, Hungerford's Tavern Chapter, NSDAR. September 17, 2007, marks the 220th anniversary of the signing of the Constitution of the United States of America.

VI. PUBLIC APPEARANCES

1. *William Martin, 110 Fairgrove Terrace, VP of Saybrooke HOA*, thanked the Mayor and City Council and City Police for their efforts to resolve issues in the Saybrooke community such as residential overcrowding, robberies, loitering, theft, and vandalism.
2. *Cathy Wendolkowski, 203 Saybooke View Drive, Treasurer of Saybrooke HOA*, expressed neighborhood safety concerns for the children walking to and from school. She proposed increase police presence as a deterrent to crime in the area and loitering in Kelley Park.
3. *Beth Hill, Saybrooke resident*, stated her home is next to Kelley Park and echoed neighborhood safety concerns expressed above. She suggested better lighting, video cameras and increased police presence along the paths.
4. *Beth Junice, Saybrooke HOA Board Member*, expressed safety concerns at the Kelley Park fields and paths. Asked the City to post signs for park hours and that police patrol be increased. Commended Police Corporal Rudy Wagner for his efforts.
5. *Tom Vasser, 7 Rideout Court, 25 year resident of Gaithersburg* and no longer feels safe in Gaithersburg, especially in and around Kelley Park.

Mayor Katz asked for an update from Chief of Police King on the situation to share with the neighborhood.

VII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS

Council Member Sesma

1. Encouraged all to be proud of the rights the Constitution gives us.
2. Attended the Montgomery Housing Fair and Celebrate Gaithersburg Day in Olde Towne which was well attended and enjoyed by many and thanked staff for their efforts.
3. Thanked City Manager Humpton for his years of service and the assistance given to him when elected to the City Council.
4. Announced the CHARACTER COUNTS! Foundation of Live, Adult Heroes, and Poster Contest deadlines are Friday, September 21, 2007.
5. Announced a Closed Executive Session was held by the Mayor and Council on September 10, 2007 at approximately 9:25 p.m. to discuss the annual performance evaluation of the City Manager and adjourned at approximately 10 p.m.

Council Member Marraffa

Announced he will be attending the National League of Cities Task Force on Immigration meeting in Los Angeles and will give a report upon his return.

Council Vice President Alster

1. Referred to a wonderful Celebrate Gaithersburg Day in Olde Towne and commended staff on their efforts. During the 26th anniversary celebration, the City announced the winners of the 2007 Outstanding Organization (*Second Chance Wildlife*), Distinguished Friend (*Jerry and Carol Gimmel*) and Distinguished Citizen (*Richard Knoebel*) Awards.
2. Thanked City Manager Humpton for all his hard work.

Council Member Schlichting

1. Echoed compliments and thanks to staff for their efforts for organizing the City's fall events such as the Labor Day Parade, Kentlands 5K Race, Montgomery Housing Fair, Celebrate Gaithersburg in Olde Towne, and the upcoming Oktobefest.
2. Announced the City's Arts Barn fall schedule of "Songs and Stories" and "Artful Mornings and Afternoons" programs for preschoolers.

Mayor Katz

1. Congratulated the award winners at Celebrate Gaithersburg Day in Olde Towne.
2. Announced Whole Foods Community Giving Day to benefit the Wells/Robertson House on Thursday, September 20, 2007, at the Kentlands Whole Foods Market, 10 a.m. to 8 p.m., where "celebrity baggers" including himself and several City Members will participate. Whole Foods will donate five percent of the store's net proceeds to support the initiative of the Friends of Wells/Robertson House, Inc.
3. Reported he received numerous telephone calls to say that they were sorry to see City Manager Humpton retire and wanted to wish him well.
4. Announced the following meeting schedule:
 - work session on Monday, September 24, 2007, to receive a presentation from the Friends of Wells/Robertson House and to discuss the proposed Olde Towne Clock Tower Plan.
 - regular meeting of the Mayor and City Council on Monday, October 1, 2007.

VIII. FROM THE CITY MANAGER

1. Thanked the Mayor and City Council and staff for their leadership. Stated that the City of Gaithersburg is a great organization to work for and thanked the City for allowing him 23 years to serve the community.
2. City Manager Humpton stated that staff had recommended the addition of an Emergency Management Coordinator position in the FY 2008 City Budget and the position was approved during the budget process. He stated that he, Police Chief King and Human Resources Director Daily had reviewed and revised the class specifications for the position. Staff is now recommending a job description and asked that the individual be supervised by Police Chief King under the Police Department. The Mayor and City Council directed staff to move forward and advertise the position.

RECESSED THE MAYOR AND COUNCIL MEETING AT 8:15 P.M.
AND RECONVENED AT 8:30 P.M.

IX. ORDINANCES, RESOLUTIONS, AND REGULATIONS

1. **AB-57 - Introduction of an Ordinance to Abandon 6,509 Square Feet of Existing Land Area Adjacent to Parcel P-936, East of North Summit Avenue; 3,851 Square Feet for Land Area Abutting the Southern Boundary of Gaithersburg Elementary School; and 7,044 Square Feet of Land Previously Dedicated for a 25-Foot Public Alley Adjacent to Lot J, East Diamond Avenue, in the City of Gaithersburg, Montgomery County, Maryland**

Public hearing tentatively scheduled for Monday, October 15, 2007.

Motion was made by Council Member Sesma, seconded by,
Council Member Alster, that the above Ordinance, be introduced.

Vote: 5-0

2. **Introduction of an Ordinance to Amend Chapter 5 of the City Code Entitled "Buildings," to Include in Article II, Entitled "The International Residential Code (2003)," a New Section R326 "Gaithersburg Green Residential Criteria"**

Assistant City Manager Felton stated that the draft ordinance includes the following key provisions:

1. Energy Performance- Energy efficiency requirements for heating, cooling, hot water, lighting, ductwork, building envelope, windows, and appliances that are primarily based on the U.S. Environmental Protection Agency's ENERGY STAR Qualified Homes National Builder Option Package. It is intended that homes built to these standards are 15% more energy efficient than homes built to the current IRC standard and 20-30% more efficient than a standard home.
2. Healthy Living Environments- Standards to protect occupants from exposure to building contaminants are derived from the ENERGY STAR Indoor Air Package Specifications and Green Communities Criteria.
3. Waste Reduction and Recycling- Requires the development and implementation of a *Construction, Demolition, and Landclearing (CDL) Waste Management Plan* with a goal to divert a minimum of 50% (by weight) of CDL waste from the landfill by one, or a combination of the following activities: salvage, reuse, source-separated CDL recycling, or co-mingled recycling.
4. Homeowner Education- Requires the builder to provide an Owner's Manual and Orientation to educate the homeowner about the home's green features and the operation and maintenance of key features and equipment related to optimizing home performance.

In addition, he stated that the Climate Protection Agreement is one of the key factors. Concerns were expressed regarding the language and its impact on residential construction. It was suggested that the City seek developer input on energy efficient development and healthy environments without detriment to the building industry. A public hearing is tentatively scheduled for Monday, October 1, 2007.

Motion was made by Council Member Sesma, seconded by,
Council Member Alster, that the above Ordinance, be introduced.

Vote: 5-0

3. Resolution for the Olde Towne Rolling Stock Restoration Project

Director of Community Development Kauffmann stated that the City was awarded a federal grant for the above project that will be administered by the State Highway Administration. This resolution will allow the City to execute a Memorandum of Understanding between the State of Maryland and the City, complete final design, and move forward with the project.

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE STATE HIGHWAY ADMINISTRATION FOR THE OLDE TOWNE ROLLING STOCK RESTORATION PROJECT (Resolution No. R-99-07), be approved.

Vote: 5-0

4. RC-36 - Road Code Waiver for a Variable Road Section for the Vistas SDP-04-001

Planner Seiden stated that in conjunction with application SDP-04-001, the applicant Churchill Development Corp., filed an application for the above waiver on Highland Ridge Drive. The waiver requests a reduction in the right-of-way width from 50 feet to 45 feet, with pavement width reduced from 32 feet to 20 feet.

In response to Council Member Schlichting regarding the City's antiquated road code, City Manager Humpton stated that staff will meet and come back with recommendations on the issue.

Motion was made by Council Member Edens, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING RC-36: ROAD CODE WAIVER REQUEST FOR A VARIABLE ROAD SECTION FOR THE VISTAS SCHEMATIC DEVELOPMENT PLAN SDP-04-001 (Resolution No. R-100-07), be approved.

Vote: 5-0

5. RC-38 - Road Code Waivers for Variable Road Sections, Radii, Intersection Spacing and Median Breaks for the Casey East Development SDP-07-001

Planner Seiden stated that in conjunction with the application, Rodgers Consulting, Inc., on behalf of the applicant, BP Realty Investments, LLD, filed for road code waivers. The subject plan was granted approval by the Mayor and City Council on August 20, 2007 that included a condition that road code waiver be approved. She stated that the waiver request is similar to those already approved for Kentlands and the West End at Watkins Mill Town Center which includes proposed road sections, radii, intersection spacing and median breaks. Staff is recommending the following conditions:

1. The Department of Public Works, Parks Maintenance and Engineering and the City Fire Marshal will review the final design of the road code waiver request and upon finding that the streets will operate safely with potential additional safety measures, will approve the final design of the road code waiver.
2. Applicant to enter into a reciprocal use agreement with the City, to run with the land, providing the property owner with access to medians on streets A1 and B1 for the purpose of installing and maintaining community monument signage and landscaping and providing the City access to private property adjacent to the right-of-way on streets A1, B1, A2, B2, and the portion of street B3 with a 21.33" right-of-way for installation and maintenance of street signage and street lights as well as maintenance of storm drains, curb and gutter. The agreement is to be executed

prior to final site plan approval.

Motion was made by Council Member Alster, seconded by, Council Member Edens, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING RC-38: ROAD CODE WAIVERS FOR VARIABLE ROAD SECTIONS, RADII, INTERSECTION SPACING AND MEDIAN BREAKS FOR THE CASEY EAST DEVELOPMENT SCHEMATIC DEVELOPMENT PLAN SDP-07-001 (Resolution No. R-101-07), be approved with the above revised condition #2.

Vote: 5-0

6. Resolution Approving a Community Legacy Application and Receipt of Financing

Director of Community Development Kauffmann stated that the City is applying for grant funding under the FY'08 Community Legacy Program for a project that promotes Smart Growth initiatives in locally designated Community Legacy Areas. The program, administered through the Maryland Department of Housing and Community Development, provides a flexible source of funding in support of local revitalization efforts. This year's application in the amount of One Hundred Thousand Dollars (\$100,000), coupled with the City's match of One Hundred Thousand Dollars (\$100,000), will allow for roadway improvements on Russell Avenue. She added that the project is listed in the City's Capital Improvements Budget for FY'09.

Motion was made by Council Member Schlichting, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING A COMMUNITY LEGACY APPLICATION AND RECEIPT OF FINANCING FOR A COMMUNITY LEGACY PROJECT IN GAITHERSBURG, MARYLAND, TO BE FINANCED EITHER DIRECTLY BY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT OF THE STATE OF MARYLAND OR THROUGH OTHER DEPARTMENTS OR AGENCIES OF THE STATE OF MARYLAND (Resolution No. R-102-07), be approved.

Vote: 5-0

7. Resolution to Negotiate and Execute a Retention Agreement With Cathy G. Borten, Esq.

This resolution authorized the City Manager to enter into a retention agreement with Cathy G. Borten, Esq. at a rate of One Hundred Eighty-Five Dollars (\$185) per hour.

Motion was made by Council Member Edens, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A RETENTION AGREEMENT WITH CATHY G. BORTEN, ESQ. (Resolution No. R-103-07), be approved.

Vote: 5-0

8. Resolution to Enter Into an Employment Agreement With the City Manager

This resolution provides that the Mayor and City Council agreed to enter into an Employment Agreement with David B. Humpton to provide for the terms of Mr. Humpton's retirement, including but not limited to, Mr. Humpton's compensation and benefits through the effective date of his retirement, and provisions governing any earlier separation that may occur prior to April 1, 2008. She noted that outside counsel did review the agreement and finalized it on behalf of the City.

Motion was made by Council Member Alster, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL TO ENTER INTO AN EMPLOYMENT AGREEMENT WITH THE CITY MANAGER (Resolution No. R-104-07), be approved.

Vote: 5-0

X. POLICY DISCUSSION**MP-1-07 – Historic Preservation Element, an Amendment to the 2003 Master Plan**

Planner Robinson stated the Master Plan Element will identify potential resources for preservation and/or designation, provide recommendations for approving the City's Historic Preservation Program, and support the policies and principles of the City, as well as the other Master Plan Elements. He stated that the Historic Preservation Advisory Committee Chairman Arkin endorsed MP-1-07 during the Mayor and City Council and Planning Commission joint public hearing held April 16, 2007. The Planning Commission recommended approval for MP-1-07 on June 6, 2007, by resolution PCR-1-07, with seven recommended revisions. Staff suggested an additional change to page 27 of the draft. He stated that 201 East Diamond is going through a customary review process and staff is recommending that the property be removed from the inventory as the Historic District Commission has already made a determination on the property. Staff was directed to proceed and prepare a draft resolution.

XI. FROM STAFF

- **Guidance on a Memorandum Dated September 14, 2007 Concerning Use of CBDG Funds at the Casey Community Center**

Assistant City Manager Felton referred to a memorandum dated August 2, 2007 from City Manager Humpton which indicated that the City will be expending approximately Sixty Thousand (\$60,000) in the near future to address code related issues at the Casey Community Center. During recent meetings, staff proposed the use of Community Block Development Grant funds. Staff believes that the proposed renovations is a good use of the funds and recommended moving forward with an Request For Proposal for the project and return to the Mayor and City Council in the new future with a resolution for approval. The Mayor and City Council concurred with staff's recommendation.

- **Citizen Survey**

Assistant City Manager Tomasello followed up on a presentation given at a recent Mayor and City Council meeting regarding the upcoming citizen survey and asked for input on any preferred policy questions. He added that staff preferred not to have any policy questions during the first round. Staff was directed to proceed.

- **City Attorney Borten**

Cathy Borten announced that it was her last official meeting and thanked the Mayor and City Council and staff for a wonderful experience. She stated that it was an honor to serve the Gaithersburg community.

XII. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:55 p.m.

Respectfully submitted,

Doris R. Stokes

Doris R. Stokes
Executive Assistant